

Rocky Flats Coalition of Local Governments

Boulder County City and County of Broomfield Jefferson County
City of Arvada City of Boulder City of Westminster Town of Superior

Rocky Flats Coalition of Local Governments Board Meeting Minutes

Monday, January 9, 2006

8:30 a.m. – 11:30 p.m.

Jefferson County Airport, Broomfield

Board members in attendance: Shaun McGrath (Director, City of Boulder), Jennifer Bray (Alternate, City of Boulder), Lori Cox (Director, Broomfield), Vince Buzek (Alternate, Broomfield), Mike Bartleson (Alternate, Broomfield), Jo Ann Price (Director, Westminster), Lorraine Anderson (Director, Arvada), Jim Congrove (Director, Jefferson County), Nanette Neelan (Alternate, Jefferson County), Karen Imbierowicz (Director, Superior), Ben Pearlman (Director, Boulder County), Jane Uitti (Alternate, Boulder County)

Coalition staff members and consultants in attendance: David Abelson (Executive Director), Rik Getty (Technical Program Manager), Barb Vander Wall (Seter & Vander Wall, P.C.), Erin Rogers (consultant).

Members of the Public: John Rampe (DOE), Shirley Garcia (Broomfield), Bob Darr (DOE), Marion Galant (CDPHE), Carl Spreng (CDPHE), Bob Nelson (City of Golden), Marjory Beal (League of Women Voters-Jefferson County), Amy Thornburg (USFWS), Mark Aguilar (EPA), Rob Henneke (EPA), David Krucek (CDPHE), Shelley Stanley (City of Northglenn), Joe Varley (Rep. Beauprez), Sam Dixon (citizen), Roman Kohler (citizen), Jeannette Hillary (League of Women Voters-Colorado), Claire Cynak (GAO), Al Nelson (Westminster), Jane Greenfield (City of Westminster), Dean Rundle (USFWS), Doug Young (Rep. Udall), Mark Sattleberg (USFWS), Jeanette Alberg (Sen. Allard), Evie Hemphill (Metro North Newspapers).

Convene/Agenda Review

Chair Shaun McGrath convened the meeting at 8:35 a.m.

Business Items

1) Consent Agenda – Lorraine Anderson moved to approve the consent agenda. Karen Imbierowicz seconded the motion. The motion passed 7-0.

2) Executive Director's Report - David Abelson reported on the following items.

- This is the second to last meeting of the Coalition, and David has calculated that this meeting is the 79th meeting of this group. David recognized Vince Buzek, who has taken over for Gary Brosz. Lori Cox is now Broomfield's Director on the Coalition, and Vince will serve as the First Alternate.

ADMIN RECORD

- The Intergovernmental Agreement (IGA) for the Stewardship Council is in the process of being approved by all member governments. The Arvada, Boulder and Westminster Councils will be discussing the IGA in the next few weeks. This document will form the legal basis for the new organization. Once it is approved, the Stewardship Council can begin tasks such as applying for a tax identification number, assuming the assets and liabilities of the Coalition, and beginning the grant process with DOE. The Stewardship Council will become a legal entity before RFCLOG ceases to be a legal entity. This is necessary in order to legally transfer assets and liabilities.
- David has begun determining what to do with the Coalition's files. Some of this information will be transferred to the Stewardship Council. He believes that much of the older files and work has some historic value and should be placed somewhere in the public domain. RFCAB, RFLII and other Rocky Flats-related groups have placed their information in the University of Colorado (CU) archives. The CU archive has much historical information, but is lacking files from the 1989 raid onward. David thinks RFCAB, RFCLOG, and other groups can provide an important addition to CU's Rocky Flats collection. CU has expertise in managing and cataloguing documents, and will make them available to the public and online for research purposes.
- The Board has received copies of the LSO plan that was approved by DOE-LM just before Christmas. David commented that he does not have any problems with the changes made by DOE and thinks this is a workable plan.
- Interviews for the Stewardship Council will take place at the February 6, 2006, Coalition meeting. Applications are due one week from tomorrow and will be scanned and sent to the Board for review. The Board will need to determine which applicants to interview and a process for making this determination. This may depend on how many applications are received. David suggested that he work with the Executive Committee to develop this process.
- The Board had discussed the possibility of the Stewardship Council sending representatives to Washington, D.C. in March for meetings. At this point, David is recommending that the Stewardship Council not schedule these meetings in March, but instead wait until the organization is more established. May or June may be a more appropriate timeframe for such meetings.
- Finally, David noted that the Board will be receiving copies of Rik's IHSS briefing memos. These will be discussed at the next meeting. However, since this information is quite technical, staff is handing it out early in order to allow more time for review. Once approved by the Board, these summaries will be posted on the Coalition's website.

Shaun McGrath reviewed three issues from David's update that need further discussion. First, Shaun asked for discussion on the archive question. He asked if Lori Cox had any questions because she had previously sent an email with some concerns. Lori said, based on David's explanation, she is now comfortable using the archives at CU. Lorraine Anderson moved to archive the Coalition's files at CU; Jim Congrove seconded the motion.

Jane Uitti asked if CU charges a fee for library access. David said he was not aware of a fee. He did ask CU if these files would be publicly available, and they would. Lorraine amended her motion to include a request that CU make the documents available to the public at no charge. Rik

Getty stepped out to call the CU library, so the Board decided to hold off on the vote.

Shaun moved the Board on to a discussion of the LSO interviews. He asked for discussion on whether the Board would like to prescreen applications, or interview all of the applicants.

Lorraine Anderson said that as long as there are a reasonable amount of applicants the Board should interview all. The Arvada City Council allows 5 minutes per person. Only in an instance when they had up to 90 applicants did they need to prescreen and not interview all of the applicants. Jo Ann Price said she agreed that the Board should interview all applicants. Seeing the Board in agreement, Shaun concluded that all applicants will be interviewed. He encouraged anyone interested in serving on the Stewardship Council to submit an application by next week. Jo Ann asked David how many applications have been received to date. David said they have one from Roman Kohler on behalf of the Rocky Flats Homesteaders, and one from another former employee. Jim Congrove asked what would happen if they received only four applications, but the Board did not think all of these should be awarded seats. Shaun replied that this group is simply making recommendations to the Secretary of Energy, and may therefore recommend less than the four if that is what is decided. The Secretary will make the final decision.

David announced that Rik was not able to reach the CU archivist by phone, but he does not believe there is a fee. Jim Congrove stated that even if there is a fee it will probably be very small and CU is still the best place for the Coalition's records. Shaun suggested that the Board now vote on this issue. The motion passed 7-0.

Shaun next asked the Board to discuss David's recommendation that the Stewardship Council schedule meetings in Washington, D.C. later in the spring and not try to schedule meetings for March. Jo Ann Price noted that it would require more money to go later, since staff is already going to be in D.C. in March. Lorraine Anderson stated that if there is a money issue, the cities could send fewer people, and that she thinks this trip should be postponed. The Board agreed that the Stewardship Council D.C. meetings should be scheduled later in order to allow time for the new group to first become organized and identify important issues.

Nanette Neelan noted that Jefferson County was planning on scheduling the resolutions for both terminating the Coalition and enacting the Stewardship Council for the same meeting and asked if this timing will be appropriate legally. Barb Vander Wall said it would work just fine. The IGA requires parties to take action in order to terminate. The motion will transfer this power to the Directors rather than the Councils.

David asked if there were any outstanding questions about the IGA. Nanette Neelan asked if they had the final version. David said the final version was sent out last Thursday, after a few minor clarifications.

Just prior to the public comment period, Shaun asked the members of the audience to introduce themselves.

Public Comment

Jeanette Alberg (Sen. Allard) provided a quick update on the Allard/Salazar mineral rights legislation. This legislation was included in the FY06 Defense Authorization Act which has been sent to the President for his signature. There is no known reason that he would not sign it, so this should be finalized shortly.

Marion Galant (CDPHE) asked the Board how the application process for the Stewardship Council was announced to the public. David said that the Coalition sent out letters to all organizations that had commented during the refuge planning process, and also organizations and individuals who have been involved in Rocky Flats over the years. They also placed ads in newspapers, and the member governments posted information through their channels. He said the Coalition had gone further than DOE had requested by targeting and reaching out to new constituencies. Jo Ann Price noted that Westminster had information on their City television channel.

Claire Cymak (GAO) asked Board members to please return their surveys to Pam Tumler, and if anyone had questions to feel free to ask her.

Post-Closure Signage and Access Restrictions

David introduced this topic by noting that discussions regarding post-closure signage and access restrictions are going to be seen in three different areas: 1) final regulatory documents; 2) USFWS refuge planning process; and 3) State Representative Wes McKinley has said he is planning on reintroducing legislation to mandate warnings about Rocky Flats history. This conversation is the beginning of a process that David hopes does not get pre-empted by state legislation.

Dean Rundle (USFWS) and John Rampe (DOE) joined the Board for this discussion. Dean handed out a 3-page summary of the current status and outlook for public access and signage at the Rocky Flats National Wildlife Refuge. The information in the handout includes: 1) general information on refuge establishment/public use; 2) general status information on signs; and 3) USFWS position on public access to DOE-retained lands within the Rocky Flats National Wildlife Refuge.

Given the RFCA Parties' timeline for regulatory closure of Rocky Flats, the earliest USFWS anticipates accepting transfer of jurisdiction and formal refuge establishment would be early 2007. Upon establishment of the Refuge, USFWS lands are automatically closed to public access, unless opened by a separate process. If hunting or fishing is to be allowed, there will be an announcement in the federal register. If the use is to be non-consumptive, it may be announced through news releases, brochures, or other means.

There is currently no operating budget identified by Department of Interior budget for the Rocky Flats Refuge for FY06 or FY07. Therefore, the USFWS would go into a 'caretaker' status while waiting for an operating budget. During this 'caretaker' phase, there may be a minimal level of management from resources assigned to the Rocky Mountain Arsenal National Wildlife Refuge. Work during this phase may include high priority weed management, occasional law enforcement patrols, and compliance monitoring of endangered species.

If non-federal funds become available during this time, USFWS would consider implementing some of the comprehensive conservation plan (CCP) for Rocky Flats. The CCP calls for a half-mile trail to be developed from the west gate area to the Lindsay Ranch area within first year, which would be only trail built within the first five years. The USFWS will follow the CCP according to how much money is appropriated. Special tours may be granted during this time. These would be pre-arranged, guided tours, and not on a drop-in, or unescorted basis.

Within 60 days of land transfer, the USFWS will post the exterior boundary of the new refuge

with standard refuge boundary signs. These signs are posted at approximately one-quarter mile intervals. The CCP also calls for a variety of signs to interpret the wildlife, habitat and cultural (including historical) resources of the refuge. There is some specific language in the CCP about informing visitors about site history and potential risks. Because of concerns raised by Rep. McKinley, the Service is going to prepare a single purpose Step-down Management Plan this spring, which will cover the planned language on signs. Dean does not anticipate having public meetings on this, but will send copies to local governments and stakeholders. The USFWS will take comments and go from there.

Access to DOE-retained lands is the responsibility of DOE's Office of Legacy Management (LM). The USFWS provided a recommendation on this issue to the RFCA parties on June 6, 2004. This recommendation called for a 4-strand barbed wire, as well as signage. However, the USFWS is not the decision-maker for these areas, and the RFCA Parties have not yet announced their final plans.

John Rampe confirmed that the RFCA Parties did receive this recommendation from USFWS regarding fencing and signage. He went on to clarify that the reasons there will be access controls are not because of residual contamination. The surface is safe for refuge workers, and there is nothing to preclude future interpretive trails in these areas. Any signage or fencing in the DOE-retained areas will be intended solely to delineate boundaries and protect remedies (such as wells, treatment systems, and landfill covers). The easiest way for the public to do damage to these areas would be to disrupt the vegetation. Another reason for access controls is to inform the public of covenant restrictions. It will also serve to inform people what was there and what is there now. Restrictions will include use of surface and groundwater, drilling, excavation, inhabited buildings, and erosion controls. This notification will be accomplished through light fencing, interpretive signs, and other signs. There are three documentary ways to record restrictions. First is the Record of Decision (will be released in October/November 2006). The ROD will be preceded by a Proposed Plan which will also document proposed restrictions (May/June 2006). In addition, the post-closure regulatory agreement, also known as RFCA II, will be an enforceable document to implement restrictions. Finally, DOE has agreed to a state environmental covenant, which will, among other things, document access controls.

The RFCA parties have not yet agreed on specific controls or language, although they agree on the reason for controls and signage. Prior to the development of the Proposed Plan, both Dan and John noted it would be helpful for the agencies to hear from the Coalition and other parties about any particular concerns they would like to see addressed given the final site closure conditions. RFCAB has expressed some concern about what will happen in the time before the Refuge becomes established, which could be a few years. During this time, DOE-LM will be supervising the site.

Shaun McGrath opened a discussion for the Board to identify any initial concerns or issues on this topic, and added that this issue will again be on the agenda for the first Stewardship Council meeting in March. Karen Imbierowicz asked if the Board will have any more information regarding proposed access controls by March. John Rampe responded that DOE can provide additional information and asked what kind of information she would like to see. Karen said she was interested in information about what is planned to protect the remedies. Lorraine Anderson said she would like to know if these plans will be officially recorded somewhere so it can be shared with the State legislature. She would like to be able to show them that this issue is being addressed thereby obviating the need for the legislature to intervene.

John Rampe said the Proposed Plan will be available in May or June. Dean Rundle said that USFWS hopes to have a decision by the middle of the spring. USFWS has the legal authority to make this decision, and he is not sure how a state law would impact this authority. Lorraine thinks it is detrimental to cities/counties when the state legislature steps into issues in this way. She does not know whether the Stewardship Council will want to take a stand on this issue, but she thinks the Coalition members should speak to the legislators. Since USFWS and DOE are thinking along the same lines, David asked if it would be possible for the agencies to draft a joint letter to the Coalition on the path forward regarding future access controls. David noted that this would be of value for a number of different reasons, including addressing any concerns that may arise at the state legislature.

Jim Congrove mentioned that Jefferson County would like to help get this first trail built if possible. Shaun asked what the timeframe the agencies are looking at for communicating these access control messages into the future. John Rampe said they are looking at this as an indefinite period. Shaun said he would like to see more specifics about this issue in terms of the materials and language that will be used. John responded that there are different levels of messages to communicate. In terms of long-term timeframes such as Shaun is discussing, he does not know that there is a level of contamination remaining that would bring these kinds of discussions in to play. In the foreseeable future, DOE has responsibility to ensure these messages are conveyed. Shaun added that he thinks that probably 99% of public will obey the access restrictions, but he is worried about those that do not, which is why he believes fencing and more robust structures are important. He does not think barbed wire is going to do the job.

Ben Pearlman said he is also interested in the content of signage. He said it will be important to try to let people know what the monitoring is showing and how often the areas are monitored, so visitors know what they are getting into when they approach a fence. He added that there is a curiosity in people about what is inside certain areas. He is also concerned about movement of wildlife with regard to fencing. Ben pointed out the need to recognize the importance of long-term messages and he looks forward to seeing more details. Dean noted that the planned access points to the Refuge are listed in the CCP. He added that signs, plus law enforcement, will keep most people out, but they will never be able to stop everything. John Rampe noted that the things DOE is most worried about are simple vandalism and poaching, and they are looking into hiring private security.

David Abelson stated that the concept of linking onsite information to more comprehensive sources offsite information is important in conveying information. Shaun McGrath added his concern about the lack of an operating budget for USFWS at the Rocky Flats Refuge. He said the LSO should understand what USFWS is planning to do and what they will not be able to do due to the lack of an operating budget. He suggested this could be an issue the Stewardship Council could bring to D.C. when the first meetings are scheduled, in order to ensure the refuge is managed in an appropriate manner.

Big Picture

This meeting is scheduled to be Shaun's last one as Chair as Lori Cox is scheduled to take over at the February meeting. Lori questioned whether it makes sense to change the Chairmanship for only one meeting. Lorraine Anderson moved that Shaun continue as Chair through the February meeting. The motion was seconded by Jim Congrove. Karen Imbierowicz noted that when the Stewardship Council starts, the group agreed to elect a Chair, and asked if this is acceptable to Lori. Lori responded that it is. David noted that Broomfield started as the Coalition's first chair,

so it came full circle. The motion was approved 7-0.

February 6, 2006, meeting topics will include:

- Briefing on Rik's IHSS briefing memos,
- LSO interviews.

March 6, 2006, will be the first Stewardship Council meeting.

David mentioned that when the Coalition first met in 1999, there was a press event, and he suggested that the Board consider arranging something similar to mark the start of the Stewardship Council.

Barb Vander Wall noted that the Coalition will officially have to assign its assets and liabilities, and this can be done either in February or in a brief meeting in March. David said he will discuss this issue with the Board and let her know. Karen asked when bylaws for the Stewardship Council will be discussed. David said he hopes to have draft bylaws developed by the end of January. Shaun said the Coalition could take an initial look at the draft bylaws at the February meeting prior to the first Stewardship Council meeting in March.

At 10:00 a.m. Shaun McGrath motioned to move into Executive Session for the purposes of discussing contract and lease negotiations, personnel issues, and to receive legal advice on such issues, as authorized under Sections 24-6-402(4)(a), (b), (e) and (f), C.R.S. Lorraine Anderson seconded the motion. The motion passed 7-0.

The Board reconvened from Executive Session at 11:25 a.m. and affirmed that no actions had been taken during Executive Session.

Shaun McGrath moved that the Coalition retain Barb Vander Wall (attorney) / Jennifer Bohn (accountant) / Tricia Marsh (web designer) on an ongoing basis and contract with Crescent Strategies with changes noted to Exhibit A to the contract to provide services for LSO on 6-month period, which would include executive director and technical advisor positions; during timeframe the organization would begin identifying long-term staffing needs. Lorraine Anderson seconded the motion. The motion was approved 7-0.

Shaun McGrath moved that RFCLOG enter into 6-month lease agreement with priority being (1) finding space within Boulder or Boulder County government; (2) spending up to \$6K for private office space; (3) allow Crescent Strategies to work out of their homes. Lorraine Anderson seconded the motion. The motion was approved 7-0.

Shaun McGrath moved that RFCLOG hire David Abelson to draft a history of RFCLOG and allow for \$18,000 plus additional cap of \$7000 in expenses, excluding printing costs. Lorraine Anderson seconded the motion. The motion was approved 5-2, with Westminster and Broomfield in opposition.

The meeting was adjourned at 11:30 a.m.

Respectfully submitted by Erin Rogers.

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